IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.8.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.595 of 2007

Bavoolraj .. Petitioner

Vs

1. The State of Tamilnadu,
   rep. by its Secretary to Govt.,
   Prohibition & Excise Department,
   Fort St. George,
   Chennai - 9.

2. The District Collector
   and District Magistrate,
   Villupuram District. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.K.G.Senthilkumar
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, who is the son of detenue, Sagayameri, who was incarcerated by order dated 18.2.2007 of the second respondent under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding her as a Bootlegger, has preferred this petition for issue of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 18.2.2007 in D.No.C2/6985/2007 against the petitioner's mother, Sagayamari, now confined at Central Prison, Special Cell for Women, Vellore, to set aside the same and to direct the respondents to produce the above said detenue before this Court and set her at liberty.

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2. On 8.2.2007, the Inspector of Police, Tirukoilur Prohibition Enforcement Wing, along with police party, while conducting prohibition raid at Pagandai Colony, found a woman, the detenue herein, possessing a white colour plastic can and pouring some liquid in a plastic tumbler and giving to a person standing in front of her. On seeing the police people, the person who drank it ran away. The said woman also tried to escape from that place, but she got caught by the police. Two lorry tubes containing 140 litres of arrack were recovered. The detenue was arrested at 9.30 hours and a case was registered in Crime No.142 of 2007 on the file of Tirukoilur Prohibition Enforcement Wing under Sections 4(1)(i), 4 (1)(aaa) and 4(1-A) of the Tamil Nadu Prohibition Act. Samples of country arrack were taken and were sent for chemical analysis, which disclosed that the arrack was mixed with atropine of 3.47mg%, which would be injurious and also fatal, if it not treated vigorously.

3. The second respondent, taking note of this case as a ground case and finding that there are four adverse cases pending against the detenue for the offences punishable under the Tamil Nadu Prohibition Act, and having satisfied that there is a compelling necessity to detain the detenue in order to prevent her from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered her detention dubbing her as a Bootlegger.

4. The learned counsel for the petitioner challenges the impugned order of detention dated 18.2.2007 on the only ground that the contents of the document in page 85 of the booklet are not legible. It is submitted that since illegible document has been furnished, which is a vital document, the detenue was not able to make an effective representation. Accordingly, the non-application of mind of the detaining authority to the above facts vitiates the order of detention.

5. We find some force in the contention urged by learned counsel for the petitioner, since in our opinion, the contents of the document in page-85 of the booklet are illegible. Hence, the impugned order of detention is vitiated. Accordingly, this petition is allowed. The order of detention dated 18.2.2007 is quashed. The detenue is directed to be set at liberty forthwith unless her presence is required in connection with any other case.

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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ATR

To:

1. The Secretary to Government,
   State of Tamilnadu,
   Prohibition & Excise Department,
   Fort St. George,
   Chennai - 9.

2. The District Collector
   and District Magistrate,
   Villupuram District.

3. The Superintendent,
   Special Cell for Women,
   Vellore.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St.George, Chennai - 9.

1 CC To Mr.K.G.Senthilkumar, Advocate, SR NO.52696.

H.C.P.No.595 of 2007

NG(CO)
RVL 05.09.2007

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